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5 DROPLETS, INC.,

6 Plaintiff,

7 v.

8 YAHOO! INC.,

9 Defendant.

10 OATH, INC., et al.,

11 Intervenor-Plaintiffs,

12 v.

13 DROPLETS, INC.,

14 Intervenor-Defendant

15 DROPLETS, INC.,

16 Plaintiff,

17 v.

18 NORDSTROM, INC.,

19 Defendant.

20 Case No. 12-cv-03733-JST

21 **SCHEDULING ORDER AND ORDER
22 OF CONSOLIDATION**

23 Case No. 12-cv-04049-JST

24 For the administrative convenience of the parties and the Court, and on the Court's own
25 motion, these cases are now consolidated for all purposes. Fed. R. Civ. P. 42(a). Case No. 12-cv-
26 03733-JST shall be the lead case and referenced in the caption of all pleadings. All documents
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United States District Court
Northern District of California

1 shall be filed in the lead case. Pursuant to Federal Rule 42(b), the Court will conduct separate
2 trials of the '3733 and '4049 cases.

3 The Court hereby sets the following case deadlines pursuant to Federal Rule of Civil
4 Procedure 16 and Civil Local Rule 16-10:

5	Event	Deadline
6	Fact discovery cut-off	October 2, 2020
7	Expert disclosures	October 30, 2020
8	Expert rebuttal	November 24, 2020
9	Expert discovery cut-off	December 22, 2020
10	Deadline to file dispositive and <i>Daubert</i> motions	January 20, 2021
11	Dispositive and <i>Daubert</i> motion oppositions due	February 10, 2021
12	Dispositive and <i>Daubert</i> motion replies due	February 24, 2021
13	Hearing on dispositive and <i>Daubert</i> motions	March 17, 2021
14	Pretrial conference statement due	May 14, 2021
15	First pretrial conference	May 21, 2021 at 2:00 p.m.
16	First trial	June 21, 2021 at 8:00 a.m.
17	Estimate of trial length (in days)	12
18	Pretrial conference statement due	August 6, 2021
19	Second pretrial conference	August 13, 2021
20	Second trial	September 13, 2021
21	Estimate of trial length (in days)	12

26 These cases will be tried to a jury. The Court will determine later which case proceeds
27 first to trial.

1 In addition to the foregoing deadlines, either a jointly proposed ESI order or competing
2 proposed orders are due in the *Nordstrom* action by March 13, 2020. If the parties submit
3 competing orders, the Court will endeavor to choose, in all respects, the single proposal it
4 concludes is most reasonable. *See Michael Carrell & Richard Bales, Considering Final Offer*
5 *Arbitration to Resolve Public Sector Impasses in Times of Concession Bargaining*, 28 Ohio St. J.
6 on Disp. Resol. 1, 20 (2013) (“In baseball arbitration . . . the parties . . . have every incentive to
7 make a reasonable proposal to the arbitrator because the arbitrator will choose the more reasonable
8 offer.”).

11 The Court has set dispositive and *Daubert* motion deadlines which allow enough time for
12 the Court to consider any such motions well in advance of trial. The parties should assume that
13 any subsequent continuance of the dispositive or *Daubert* motion deadlines, or any enlargement of
14 the dispositive or *Daubert* motion briefing schedule, will result in a continuance of the pretrial
15 conference and trial dates of equal or greater length.

16 The parties must take all necessary steps to conduct discovery, compel discovery, hire
17 counsel, retain experts, and manage their calendars so that they can complete discovery in a timely
18 manner and appear at trial on the noticed and scheduled dates. All counsel must arrange their
19 calendars to accommodate these dates, or arrange to substitute or associate in counsel who can.

20 Trial dates set by this Court should be regarded as firm. Requests for continuance are
21 disfavored. The Court will not consider any event subsequently scheduled by a party, party-
22 controlled witness, expert or attorney that conflicts with the above trial date as good cause to grant
23 a continuance. The Court will not consider the pendency of settlement discussions as good cause
24 to grant a continuance.

25 | IT IS SO ORDERED.

26 | Dated: February 27, 2020


JON S. TIGAR
United States District Judge